

Town of Brownfield, Maine
MINERAL EXPLORATION AND EXTRACTION ORDINANCE

1. Mineral Exploration.

Mineral exploration to determine the nature or extent of mineral resources must be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. A permit from the Code Enforcement Officer is required for mineral exploration that exceeds the above limitation. All excavations, including tests pits and holes must be immediately capped, filled, or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

2. Permit Required.

Unless specifically allowed in Section 1, above, topsoil, loam, rock, peat, sand, gravel, and similar earth materials may be removed from locations where permitted under the terms of this Ordinance only after a permit for such operations has been authorized by the Planning Board and issued by the Code Enforcement Officer.

3. Submission Requirements.

- a. Applications to the Planning Board for a permit for the excavation, screening, or storage of top soil, loam, peat, sand, gravel, rock, or other mineral deposits must be accompanied by a plan prepared according to the performance standards herein.
- b. Plans for the proposed extraction site must include:
 - (1) A professional boundary survey of the property lines;
 - (2) Names and addresses of owners of abutting property;
 - (3) Existing elevations, at not greater than 5 foot contour intervals as well as the location and slope of the grades proposed upon completion of the extraction operation;
 - (4) Proposed fencing, buffer strips, signs, lighting;
 - (5) Parking and loading areas, entrances and exits;
 - (6) A written statement of the proposed method, regularity, working hours;
 - (7) Proposed plans and specifications for the rehabilitation and restoration of the site upon completion of the operation;
 - (8) An estimate of the elevation of the seasonal high water table within the excavation site must be submitted. The Board may require the additional submission of a hydro geologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

4. Performance Standards.

- a. No part of any extraction operation may be permitted within 150 feet of any property or street line, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet of such line. Natural vegetation must be left and maintained on the undisturbed land.
- b. If any standing water accumulates, the site must be fenced in a manner adequate to keep out children. Measures must be taken to prevent or stop the breeding of insects.
- c. No slopes steeper than 3 feet horizontal to 1 foot vertical are permitted at any extraction site unless a fence at least 6 feet high is erected to limit access to such locations.
- d. Before commencing removal of any earth materials, the owner or operator of the extraction site must present evidence to the Planning Board of adequate insurance

against liability arising from the proposed extraction operations, and such insurance must be maintained throughout the period of operation.

- e. Any topsoil and subsoil suitable for purposes of re-vegetation must, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles must be protected from erosion, according to the erosion prevention performance standards of this section.
- f. Sediment must be trapped by diversions, silting basins, terraces and other measures designed by a professional engineer.
- g. The sides and bottom of cuts, fills, channels, and artificial watercourses must be constructed and stabilized to prevent erosion or failure.
- h. The hours of operation at any extraction site may be limited if the Planning Board deems advisable to ensure operational compatibility with nearby residences.
- i. Excavation may not extend below 5 feet above the seasonal high water table without the submission of detailed findings of the depth of the water table. The Board may, upon verified determination of the depth of the seasonal high water table permit excavation within 2 feet above the water table.
- j. Loaded vehicles must be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods are subject to approval by the Planning Board. No mud, soil, sand, or other materials may be allowed to accumulate on a public road from loading or hauling vehicles.
- k. All access and egress from extraction sites entering a paved road in Brownfield shall be provided with a paved apron. Said apron shall be of sufficient size and configuration to prevent crumbling of the paved road and allow for cleaning of all vehicles to prevent mud, minerals and other material from being deposited on the road. Design parameters of said apron, may include but are not limited to, length, width, paving depth and surface slope and debris collection size and configuration, runoff filtering and ditch culverts, direction of use and safety signs, shall be as specified by the code enforcement officer and the Town Public Works Director.
- l. If, in the contest of reviewing a particular use application it becomes apparent to the Planning Board that the public's health, safety, or general welfare will be threatened, even though all of the required findings are made and all general and specific conditions for approval imposed by this ordinance and supporting regulations are met, the board is authorized to frame and impose additional special requirements (conditions) for approval. In such cases, the board in its decision must fully set forth the unforeseen circumstances, the need for and the underlying rationale of the attached special requirements (conditions). Additional special requirements may include, but are not limited to, restricting operations on any road where unsafe conditions exist, such as insufficient width to accommodate passing, without leaving the paved surface of the road, of two of the largest trucks proposed for transporting and extracting material, or passing of one such truck and a Fire Engine or School Bus. Said paving may be macadam or gravel or any other improved road composition. The board may limit roads that may be used, require smaller transport vehicles, or require widening of the roads to be used or limit the days and hours of operations. Use of the extraordinary power conferred by this section shall be kept to a minimum.
- m. No equipment debris, junk, or other material is permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith must be removed within 30 days following completion of active extraction operations.

n. Within 6 months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades must be established in accordance with the approved plans filed with the Planning Board. These plans must provide for the following:

- (1) All debris, stumps, boulders, and similar materials must be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.
- (2) The extent and type of fill must be appropriate to the use intended. The applicant must specify the type and amount of fill to be used.
- (3) Storm drainage and watercourses must leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
- (4) At least 4 inches of topsoil or loam must be retained or obtained to cover all disturbed areas, which must be reseeded and properly restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices," published by the Maine Department of Environmental Protection.
- (5) No slope greater than 3 feet horizontal to 1 foot vertical is permitted.

5. Existing Operations.

- a. Any operation involving the excavation, processing, or storage of soil, earth, loam, sand, gravel, peat, rock, or other mineral deposits in lawful operation at the time this Section becomes effective, and which meets the criteria for requiring a permit authorized by the Planning Board, may operate for a period of 5 years from the effective date without Planning Board approval. Existing operations, however, must submit to the Planning Board within 90 days of the effective date of this Section, a map indicating the area within which earth removal activity is anticipated within the five-year period, and the area that has already been subject to earth removal activity. Failure to submit the above map within 90 days results in the requirement to comply with all of these standards. Within 15 days of the effective date of this Section, the Code Enforcement Officer must notify, by certified mail, return receipt requested, the owners of all property which, to the best of the Code Enforcement Officers knowledge, contain existing operations, informing them of the requirements of this section.
- b. Discontinuation of any existing operation for a period of more than one-year results in the requirement to comply with all of these standards. Discontinuation is defined as being the excavation, processing, or storage of less than 10 cubic yards of material.

6. Performance Guarantees

Types and contents of guarantees accompanying application for final plan of new or enlargement of existing MEO's, one of the following performance guarantees must be submitted for an amount adequate to cover the total cost of the required reclamation, and an estimated amount sufficient to cover all road, culvert and bridge repairs. The amount shall be determined by the Select Board after consultation with the Planning Board, Road Commissioner and the Town Attorney.

a. Escrow Account.

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer, the municipality shall be named as the owner or co-owner, and the consent of the

municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the developer and the amount withdrawn to complete the required improvements.

b. Performance Bond.

A performance bond shall detail the conditions of the bond, the method for the release of the bond or portions of the bond to the developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the developer for which approval is sought.

c. Letter of Credit.

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the developer and may not be used for any other project or loan.

d. Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

e. Default.

If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Municipal Officers, the Board and the Developer. The Municipal Officers shall take any steps necessary to preserve the town's rights.

f. Improvements Guarantee.

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations.